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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/924,753	08/08/2001	Hans-Ueli Roeck	33868	2924

116 7590 05/08/2003

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EXAMINER
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NGUYEN, TUAN DUC

ART UNIT	PAPER NUMBER
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2643

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DATE MAILED: 05/08/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/924,753

Applicant(s)

ROECK, HANS-UELI

Examiner

Tuan D. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 8. 6) ☐ Other:

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## **DETAILED ACTION**

### ***Specification***

1. The disclosure is objected to because of the following informalities: The brief description of the drawing is missing.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 19 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 19 recites the limitation "the mean amplification value" in line 2. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application

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published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or  
(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

5. Claims 1-3, 5-14 and 16-20 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. patent number 6,359,992 (Preves et al).

Regarding claims 1 and 12, Preves et al discloses a system for implementing the method per claim 1, characterized in that a processing unit (figures 3 and 4) is provided which receives an input signal (column 5 lines 16-17 item 28) and which permits within the processing unit the determination of a threshold value (column 5 lines 25-27) ( $O_{max}$ ,  $O_{min}$ ,  $O_{TR}$ ) for the purpose of limiting the output signal, said threshold value ( $O_{max}$ ,  $O_{min}$ ,  $O_{TR}$ ) being adjustable as a function of the level of the input signal.

Regarding claims 2, and 13, Preves et al also teaches a mean level (I) can be determined by averaging (column 5 lines 5-15).

Regarding claims 3 and 14, Preves et al further teaches wherein the threshold value ( $O_{TR}$ ) can be adjusted (column 5 lines 33-44) to a point which by a differential amount ( $TR_{max}$ ) is above the mean level (I) of the input signal.

Regarding claims 5 and 16, Preves et al further teaches wherein it permits a maximum threshold value ( $O_{max}$ ) to be established (column 4 lines 26-31).

Regarding claims 6 and 17, Preves et al further teaches wherein the maximum threshold value ( $O_{max}$ ) is so selected as to be equal to an upper comfort level of a hearing-impaired person (column 4 lines 40-41).

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Regarding claims 7 and 18, Preves et al further teaches wherein it permits a minimum threshold value ( $O_{\min}$ ) to be established (column 4 lines 26-31).

Regarding claim 8, Preves et al further teaches characterized in that the minimum threshold value ( $O_{\min}$ ) is so selected as to be equal to an output level that results from an input level of about 80 dB (column 4 lines 26-31) and the corresponding amplification at that input level that is produced for a hearing-impaired person.

Regarding claims 9 and 20, Preves et al further teaches wherein the differential amount ( $TR_{\max}$ ) is adjusted along a compression ratio for a hearing-impaired person (column 8 lines 24-30).

Regarding claims 10 and 11, Preves et al further teaches the application for operation of a hearing aid by a hearing-impaired person (column 3 lines 7-11).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. patent number 6,359,992 (Preves et al).

Regarding claims 4 and 15, Preves et al do not disclose a specific averaging function.

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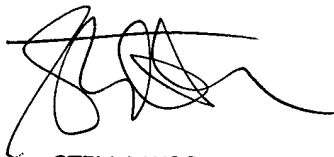
However, Preves et al discloses the averaging received signal (column 5 lines 5-15). Moreover, the formula for calculating the averaging signal is well known. Therefore, it would have been obvious to one of ordinary skill in the art at time of the invention was made to use a well known averaging signal function in Preves et al's teaching.

***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan D. Nguyen whose telephone number is (703) 305-7168. The examiner can normally be reached on M-F 8:15-4:45. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curt Kuntz can be reached on (703) 305-4708. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9314 for regular communications and (703) 872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

TDN  
April 30, 2003



STELLA WOO  
PRIMARY EXAMINER